

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OFF-WHITE LLC,

Plaintiff,

22 Civ. 2869 (PAE)

-v-

ORDER

A&S STORE, *et al.*,

Defendants.

PAUL A. ENGELMAYER, District Judge:

On April 7, 2022, plaintiff Off-White LLC (“Off-White”) filed a sealed Complaint, which alleges federal trademark counterfeiting; federal infringement of registered and unregistered trademarks; federal false designation of origin, passing off and unfair competition; and unfair competition under New York common law against A&S Store and 62 other merchants on Amazon, Alibaba, and AliExpress online marketplace platforms (the “defendants”).¹ Dkt. 2,

¹ In full, defendants included: A&S Store, Aizhu Store, Alberta Store, AntingGolden Product Store, AntiTheft Store, B&C Glasses Store, bigteacher store, CBU Store, cnemai Store, CRIXALIS Accessories Store, CYZY Store, Dexing Jinzhu Import and Export Co, LTD, Dexing Langyade Trading Co., Ltd., Dexing Xiangxing Weiye Weaving Co., Ltd., Dongguan Duocai Toys Fitting Co., Ltd., Friends party Store, Fujian Loumei Technology Co., Ltd., Fuzhou joined Import & Export Co., Ltd. Fuzhou Oulilang Trading Co., Ltd., Fuzhou Shenzhou Tonggang Technology Co., Ltd., Fuzhou Xiangxing Textile Co., Ltd., Guangdong Xinghe International Trade Co., Ltd., Guangzhou Santa Craft Gifts Co., Ltd., Hebei Duifeng Technology Co., Ltd., IANR Accessories Store, Lanshop Store, Lilibeth&Danjal Official Store, ManyFun Store, PALINDA Official Store, PGL Store Store, Qingfang Store, Quanzhou Big Chestnut Electronic Commerce Co., Tld., Quanzhou Redaibuluo Trade Co., Ltd., Rosemary Accessories Store, SARACOCO Official Store, Shenzhen Fu Da Rui Trading Co., Ltd., Shenzhen HL Co., Ltd., Shenzhen Huiboxin Electronics Co., Ltd., Shenzhen Huwang Silicone Rubber Products Co., Ltd., Shenzhen Shuntuoxin Electronics Technology Co., Ltd., Shenzhen Weien Tech Co., Ltd., Shenzhen Xiangxing Weiye Industry And Trade Co., Ltd., Shenzhen Yi Ming Shang industrial Development Co., Ltd., Shijiazhuang Zhuixin Trading Co., Ltd., Shop5471341 Store, Shop910564282 Store, STH-SU Store, Sunglasses Expert Store, TCGAD Official Store, TEGAOTE bags Store, TLZW Figures Store, Toys Collection Store, Trendy Today Store, Ty Beanie Store, Upper Forward Healthy Store, WenVVen Store, Wuxi Prospectcrown International

Dkt. 10 (unsealed). That same day, Off-White filed a proposed temporary restraining order (“TRO”), a memorandum of law, and supporting declaration and exhibits. *See* Dkts. 13–16. That same day, the Court granted the TRO, authorizing Off-White, *inter alia*, to serve each defendant by alternative means, and ordered defendants to show cause before this Court on April 20, 2022 why a preliminary injunction should not issue. *See* Dkt. 17 (discussing the same). On April 13, 2022, Off-White notified the Court that defendants had requested additional time to review and comply with the TRO and requested an extension of the TRO and adjournment of the Show Cause Hearing. Dkt. 17. Later that day, the Court denied the request to adjourn the show cause hearing and stated it would entertain Off-White’s TRO extension request at the April 20 hearing. *Id.*

On April 20, 2022, the Court issued a revised TRO authorizing Off-White, *inter alia*, to serve each defendant by alternative means, and ordering defendants to show cause before this Court on May 4, 2022 as to why a preliminary injunction should not issue. *See* Dkt. 18. On April 21, 2022, Off-White served all defendants except Dexing Xiangxing Weiye Weaving Co., Ltd with process pursuant to the alternative means of service authorized in the revised TRO, making each defendant’s deadline to answer or otherwise respond May 12, 2021. *See* Dkt. 19; Fed. R. Civ. P. 12(a). On May 4, 2022, the Court held the show-cause hearing, at which all defendants failed to appear. The Court accordingly converted the TRO into a preliminary injunction. *See* Dkt. 6.

On May 9, 2022, Off-White served all defendants except Dexing Xiangxing Weiye Weaving Co., Ltd with the preliminary injunction pursuant to the alternative means of service

Trade Co., Ltd., XJMIGO Store, Yiwu Jingsheng Crafts Co., Ltd., Yiwu Qirui Commodity Factory, Yiqu Xingsheng Trading Co., Ltd., Yueqing Ouyue Foreign Trade Co., Ltd., Zane Store, Zhengzhou Blackwell Clothing Co., Ltd., zhonghai2 Store, and zxy1164 Store.

authorized in the TRO. Dkt. 20. No defendant responded to the Complaint or otherwise appeared in this action. On June 29, 2022, Off-White gave notice of its dismissal of all claims against defendant Dexing Xiangxing Weiye Weaving Co., Ltd., Dkt. 24, and requested leave to move for default judgment, Dkt. 25. On June 30, 2022, the Court approved the voluntary dismissal, Dkt. 26, and granted Off-White's request to move for default judgment, Dkt. 27. But Off-White did not so move.

On October 3, 2022, the Court issued an order to show cause as to why the case should not be dismissed for failure to prosecute, pursuant to Rule 41. Dkt. 28. On October 10, 2022, Off-White filed for entry of default as to all defendants with the Clerk of Court. Dkts. 29–30. Also on October 11, 2022, the Clerk of Court issued certificates of default as to all defendants, Dkt. 31, and Off-White moved to dismiss voluntarily CBU store, cnemai Store, Lilibeth&Danjal Official Store, ManyFunStore, Qingfang Store, Shenzhen HL Co., Ltd., Shop 5371341 Store, TCGAD Official Store, TLZW Figures Store, Toys Collection Store, Ty Beanie Store, and Zane Store. Dkt. 32. Finally, on October 11, 2022, Off-White filed a motion for default judgment against all defendants, a memorandum of law, affidavit, and exhibits in support, and a proposed order of default judgment. Dkts. 33–36.

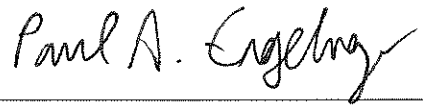
On October 13, 2022, the Court approved Off-White's October 11, 2022 notice of voluntary dismissal. Dkt. 37. On November 1, 2022, the Court ordered any defendant wishing to oppose the motion, by November 22, 2022, to show cause why a default judgment is not warranted. Dkt. 38. On November 2, 2022, Off-White served the November 1, 2022 order to show cause on defendants. Dkt. 39.

The Court has reviewed Off-White's motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b) and supporting affidavit and submissions. Dkts. 33–36. Because

proof of service has been filed, each defendant has failed to answer the Complaint, the time for answering the Complaint has expired, and each defendant has failed to appear to contest the entry of a default judgment, the Court enters a default judgment for Off-White against all remaining defendants.

The Court will refer the case, by separate order, to Judge Moses to conduct an inquest as to damages and Off-White's request for a preliminary injunction. Off-White shall serve this Order upon each defendant and file an affidavit reflecting such service on the docket by December 13, 2022. The Clerk of Court is respectfully directed to close the motion pending at docket 33.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: December 6, 2022
New York, New York